

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

IN THE MATTER OF
Dmitry Yarushkin & Yang Yang,
Petitioner-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-25-0148
Parcel No. 16-12-480-072

On January 11, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Dmitry Yarushkin and Yang Yang, originally requested their appeal be considered without hearing, however, they later changed their minds and a hearing was set. Appellants submitted evidence in support of their petition. They are self-represented. The Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. The Board of Review also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Dmitry Yarushkin and Yang Yang, owners of property located at 6255 Beechtree Drive, Condo #3308, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. According to the property record card, the subject property was built in 2005 and consists of a one-story condominium having 1088 square feet of living area and a 12 foot by 22 foot detached garage. The improvements have a grade classification of 3. The property is located in a subdivision known as Bella Centro.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$115,800, representing \$18,750 in land value and \$97,050 in dwelling value.

Yarushkin and Yang protested to the Board of Review on the grounds that there has been a downward trend in value under Iowa Code section 441.37(1) and its reference to section 441.35(3). As an attachment to their petition, they stated, "We request the fair market value of our land and our property to be adjusted downward based on the following factors: comparable sales of condominiums listed below." They also listed other reasons for a lower value. While the ground of downward trend is only appropriately pled in a non-reassessment year, it is clear that the gist of the appellants' claim is that the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review denied the protest, stating that the property owner had failed to substantiate the burden of proof.

Yarushkin and Yang then appealed to this Board. They again marked the ground of downward change in value, but reasserted the claim of over-assessment. They claimed that \$95,000; allocated \$16,000 to land and \$79,000 to dwelling was the actual value and a fair assessment of the property. In a cover letter, the Appellants noted comparable sales and the fact that since the condominium association no longer has access to the community pool, exercise room, and locker room, the value of the units in the Bella Centro subdivision have declined in value and are currently over-assessed.

Yarushkin testified that when he purchased the condominium, Bella Centro sales literature led prospective buyers to believe that the association owned the clubhouse, pool, and exercise facility. This benefit was an incentive to buyers. Subsequently, when the property management company changed, Bella Centro residents lost the use of these facilities. According to Yarushkin, the association hired an attorney to pursue legal action for fraud against the seller. After the assessment date, the dispute was resolved by a settlement agreement which allows Bella Centro residents' limited use of the facilities.

Appellants submitted a table listing all nine 2008 condominium sales in Bella Centro subdivision comparing the sales prices and the 2008 assessments. Discount ratios were calculated between the sales prices to 2008 assessments. Although Appellants provided only discount ratios, sales ratios for the same properties were provided in one of the Board of Review exhibits and have been added to the following chart.

Date of Sale	Sale Price	2008 ¹ Assessment	Discount Ratio	Sales Ratio
01/15/2008	\$98,500	\$124,910	78.9%	126.8%
02/18/2008	\$120,000	\$124,060	96.7%	103.4%
04/15/2008	\$115,250	\$113,700	101.4%	98.7%
05/13/2008	\$116,000	\$124,910	92.9%	107.7%
05/19/2008	\$124,900	\$129,910	96.1%	104.0%
07/09/2008	\$126,000	\$124,910	100.9%	99.1%
07/15/2009	\$109,182	\$123,020	88.8%	112.7%
12/03/2008	\$120,000	\$124,060	96.7%	103.4%
12/08/2008	\$94,900	\$116,810	81.2%	123.1%
2008 Average	\$113,859	\$122,921	92.6%	108.0%
2008 Median	\$116,000	\$124,060	96.1%	106.9%
2008 Last 6 Months Average	\$112,521	\$122,200	91.9%	108.6%
2008 Last 6 Months Median	\$114,591	\$123,540	92.7%	108.0%

This data indicates 8% over-assessment on Appellants' selected Bella Centro properties.

The Board of Review submitted an exhibit listing all forty-two 2008 county condominium sales except two sales in West Des Moines, that it considered abnormal foreclosure transactions. These sales showed a median sales ratio of 98.7%. This data indicates that generally condominiums in the West Des Moines area of the county are assessed consistent with their fair market values. No one testified on behalf of the Board of Review.

The Court has previously said that comparable sales do not need to be "within the assessor's geographical area." *Carlton Co. v. Bd. of Review*, 572 N.W.2d 146, 150 (Iowa 1997). We have looked

¹ For an assessment sales ratio study to be conducted properly, the year of the sales and the year of the assessments must be identical. *Cottingham v. Iowa Dept. of Rev.*, Docket 347, p. 4, (Iowa State Bd. of Tax Rev. 1982).

at both the data for the entire West Des Moines condominium market and also compared this to a limited area of only the Bella Centro condominium sales. This more restricted review was conducted because of the unique market influence caused by the loss of the pool and recreational amenities experienced in that specific subdivision. *See Soifer v. Floyd Co. Bd. of Review*, 759 N.W.2d 775, 792 (Iowa 2009); (holding witness inappropriately limited search for comparable sales to town where property was located rather than canvassing a broader geographic area); *Compiano v. Bd. of Review of Polk Co.*, 771 N.W.2d 392, 398 (Iowa 2009). This influence is akin to economic or external obsolescence and is best measured by comparing comparable sales of similar properties, some exposed to the negative influence and others not. INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION, 173, (2d. ed.1996). Because this influence is evident when comparing the 98.7% sales ratio of all West Des Moines condominiums in the county with the 103.7% sales ratio of Bella Centro condominiums, we limit our consideration to the Bella Centro sales alone.

Reviewing the Appellants' list of only the Bella Centro sales, and removing the two abnormal sales and the 2009 sale, the median sales ratio is 103.7.0%. The average sales ratio is 106.8% for the select properties. This is illustrated below.

Date of Sale	Sale Price	2008 Assessment	Discount Ratio	Sales Ratio²
07/09/2008	\$126,000	\$124,910	100.9%	99.1%
02/18/2008	\$120,000	\$124,060	96.7%	103.4%
12/03/2008	\$120,000	\$124,060	96.7%	103.4%
05/19/2008	\$124,900	\$129,910	96.1%	104.0%
05/13/2008	\$116,000	\$124,910	92.9%	107.7%
12/08/2008	\$94,900	\$116,810	81.2%	123.1%
2008 Average	\$113,859	\$122,921	94.1%	106.8%
2008 Median	\$116,000	\$124,060	96.4%	103.7%

This evidence supports Yarushskin and Yang's contention that the fair market value of Bella Centro condominiums, as reflected in the sales ratios, has declined in 2008 and should result in a

² Appellants provided discount ratios only. The Board of Review exhibit used sales ratios only. Sales ratios are added to appellants' chart to make the data comparable.

corresponding reduction for the 2009 assessment. Essentially, Appellants' 2009 assessment should have been equivalent to the 2008 value minus 3.7%. However, rather than the value being lowered for 2009, it stayed the same as evidenced by the record card. For this reason, we determine that the Appellants have met their burden to prove that their property is over-assessed. The fair market value of the subject property is \$111,630, representing \$18,750 in land value and \$92,880 in dwelling value reflecting the 3.7% reduction to the 2008 assessment that should have been applied to the property value for the January 1, 2009 assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

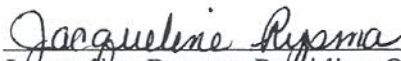
If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

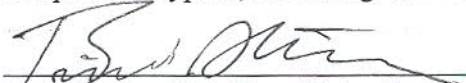
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In this case, the Appellants have shown their property is over-assessed using the sales prices of comparable properties and the assessment from that year. A sales ratio was provided by the county and supports the claim the Appellants' property is overassessed for 2009. This data also shows what the market value of their property is based on a representative sales ratio of other condominiums affected by the same market influences. They have also shown what the market value of their property is based on a representative sales ratio.

We, therefore, modify the Yarushkin and Yang property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$111,630, representing \$18,750 in land value and \$92,880 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dallas County Board of Review is modified to \$111,630, representing \$18,750 in land value and \$92,880 in dwelling value.

Dated this 25 day of February 2010.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2.25</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
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